

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 1:20-CR-178-001
	)	
CAPRICE FOSTER	)	The Honorable T. S. Ellis, III
	)	
Defendant.	)	

**DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA**

COMES NOW the defendant, Caprice Foster, through counsel, and moves this Honorable Court to withdraw her guilty plea. In support of said motion, the defendant submits the following:

1. On July 8, 2020, Mrs. Foster was arrested on a Complaint charging her with Conspiracy to Commit Bank Fraud in violation of 18 U.S.C. § 1349.
2. On July 30, 2020, an indictment was returned against Mrs. Foster charging her with Conspiracy to Commit Bank Fraud.
3. On April 29, 2021, a superseding indictment was returned against Mrs. Foster adding charges of Bank Fraud, Wire Fraud, Access Device Fraud, and Aggravated Identity Theft. Trial on the Superseding Indictment was set for June 22, 2021, and subsequently continued to December 7, 2021.
4. On November 19, 2021, the defendant appeared before this Court and, pursuant to a plea agreement, entered a plea of guilty to Count 1 of the Superseding Indictment charging her with Conspiracy to Commit Bank and Wire Fraud. The remaining counts were dismissed, and the matter was set for sentencing on March 18, 2022. Sentencing was subsequently continued to April 5, 2022.

6. The defendant's guilty plea was not made knowingly and intelligently.
7. Mrs. Foster has repeatedly and credibly asserted her legal innocence. Following entry of her guilty plea, Mrs. Foster has continued to assert her innocence.
8. There has not been undue delay in moving for withdrawal of the guilty plea.
9. Withdrawal of the guilty plea at this time will not unduly prejudice the government or waste judicial resources. *See United States v. Moore*, 931 F.2d 245, 248 (4<sup>th</sup> Cir. 1991).
10. Fair and just reasons exist to permit withdrawal of Mrs. Foster's guilty plea. Fed. R. Crim. P. 11(d).

WHEREFORE, based on the foregoing and such additional reasons as may be presented to the Court,<sup>1</sup> Mrs. Foster requests that this Honorable Court grant this motion, withdraw her guilty plea, and set this matter for trial by jury.

Respectfully submitted,

CAPRICE FOSTER  
By Counsel,

/s/ James W. Hundley  
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<sup>1</sup> Contemporaneously with this motion, counsel for Mrs. Foster has filed a Motion to Withdraw as Counsel. Given the strong potential for ethical conflicts inherent in Mrs. Foster's motion to withdraw her guilty plea, current defense counsel has only conducted a very limited investigation of the facts in support of Mrs. Foster's motion. Should new counsel be appointed, it is requested that they be granted an adequate opportunity to investigate this matter and supplement this motion.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>th</sup> day of April, 2022, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system, which will send notice of said filing (NEF) to all counsel of record in this case.

/s/ James W. Hundley

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